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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/758,626

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James R. Robellard

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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

PAPER NUMBER

3781

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/758,626

Applicant(s)

ROBELLARD ET AL.

Examiner

Stephen J. Castellano

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS; WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10, 12-30, 32, 33 and 35-39 is/are pending in the application.
- 4a) Of the above claim(s) 17 and 23-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10, 12-16, 18-22, 26-30, 32, 33 and 35-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claims 8, 9, 11, 31 and 34 have been canceled. Claims 1-7, 10, 12-30, 32, 33 and 35-39 are pending.

Applicant's election without traverse of the Group I invention and the Group B specie in the reply filed on August 28, 2006 is acknowledged.

Claims 17 and 23-25 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and specie, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on August 28, 2006.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 30, 35, 38 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Jaeger (2001/0050284).

Jaeger discloses a container having a body defining an enclosed reservoir, the reservoir operable to hold liquid, a first roller surface (bottom grating 12) pivotally coupled to the body, when in a first position (shown in the figure), located within the reservoir at a level above liquid (when the level of liquid is shallow and below the grating 12) and below the open top of the body. The top surface of the grating 12 is inherently capable of allowing a paint roller to be rolled on this surface. The sidewalls include side gratings 10.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6, 7, 10, 12-15, 19, 20, 30, 32 and 35-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drum (2659917) in view of Jaeger.

Re claims 1, 30, 38, Drum discloses a paint roller tray comprising a container body comprising a sloped floor and a pair of opposing sidewalls, the floor and sidewalls defining a reservoir operable to hold liquid, a first roller surface (top of perforate member 9) is attached to the tray. The roller surface is not pivotally coupled to a pair of opposing sidewalls. Jaeger teaches a bottom grating 12 pivotally coupled to a pair of opposing sidewalls. It would have been obvious to replace the attachment with a pivotal coupling to a pair of opposing sidewalls to provide a roller surface that pivots out of the way when stored liquid is emptied from the paint tray container.

Re the lid, Drum fails to disclose the lid. Jaeger teaches a lid. It would have been obvious to add a lid to cover the contents to prevent contaminants from entering the open top of the container.

Re claim 6, Official notice is taken that body pour spouts are well known in the container art. It would have been obvious to add this feature for providing controlled flow when pouring.

Re claim 36, the tabs are defined by the bearings 16 of Jaeger.

Claims 4, 5, 16, 18 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drum in view of Jaeger as applied to claim 1 above, and further in view of Stern et al. (Stern) (6102235).

Re claims 4 and 5, the Drum-Jaeger combination discloses the invention except for the access opening in a lid. Stern teaches a lid with an access opening. It would have been obvious

to add an access opening to allow access without removal of the lid and to allow partial access while partially covering the open top to limit exposure to contamination.

Official notice is taken that lid pour spouts are well known in the container art. It would have been obvious to add this feature for providing controlled flow when pouring.

Re claims 16 and 18, the Drum-Jaeger combination discloses the invention except for the handle and protrusion. Stern teaches a handle and protrusion. It would have been obvious to add the handle and protrusion to provide easier handling and a more comfortable grasping when lifting and moving the paint container.

Re claim 33, The Drum-Jaeger combination fails to disclose a removable lid. Stern teaches a removable lid. It would have been obvious to modify the lid to be removable to allow separate replacement of a lid or body should either become damaged.

Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drum in view of Jaeger as applied to claim 1 above, and further in view of Carling et al. (Carling) (5992106).

The Drum-Jaeger combination discloses the invention except for the X-shaped support structure where a first rib approaches a second rib proximate the center of the body. Carling teaches the X-shaped support structure supporting a generally planar surface as shown in Fig. 3. It would have been obvious to use the X-shaped pattern for the first roller surface to provide the needed reinforcing support in the area proximate to the center of the body to prevent a broken or dented roller surface.

Claims 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giarrante in view of Stern.

Re claims 26-29, Giarrante discloses a paint can 20 comprising a body 20 with a floor sloped at an angle of 0 degrees and a roller surface (shelf 33) movably coupled to the body as shelf 33 is part of removable cover 21 attached by a snap fit connection to the body. Lid (cover 23) covers an open top of the container body to enclose the roller surface within an enclosed space. The lowest portion of the roller surface is located above the volume of liquid when the paint can is filled to a level just below the base 22. The body includes cover 21 and the open top is the open top of cover 21 which is covered and sealed by cover 23. Giarrante discloses the invention except for a rectangular container with pairs of sidewalls. Stern teaches a rectangular container with pairs of sidewalls. It would have been obvious as a matter of design choice to modify the shape of the container to be rectangular for efficient packing in rectangular boxes.

Applicant's arguments with respect to claims 1-7, 10, 12-16, 18-22, 30, 32, 33 and 35-39 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37


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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc